

## REMARKS

### Status of the Claims

Claims 1-13, 19, 20, 23, 25, and 26 are currently pending. Claims 14-18, 21, 22, and 24 have been canceled without prejudice or disclaimer of the subject matter claimed therein. Claims 1-13 are withdrawn from examination as being directed to a separate invention. Claims 19, 20, and 23-26 are currently under examination.

Claim 19 has been amended, and claim 26 has been added. Representative support for the amendment to claim 19 can be found in claim 24. Representative support for new claim 26 can be found in claims 19 and 24. The amendment to claim 19 and the addition of new claim 26 do not introduce prohibited new matter.

### Rejection Under 35 U.S.C. § 112

Claim 19 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Without acquiescing to the propriety of this rejection, claim 19 has been amended to recite “a mixture of bacterial strains selected from the group consisting of . . .” Applicants submit that claim 19 is definite.

### Rejection Under 35 U.S.C. § 102(e)

Claims 19, 20, 23, and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,491,956 (Heo).

Applicants respectfully submit that Heo only discloses the identification and use of particular strains, such as *L. acidophilus* strain HY2177, *L. casei* strain HY2743, and a combination of the two, for preventing and treating gastric disorders associated with *H. pylori*. Heo does not disclose the claimed methods because Heo does not teach or suggest using the particular bacterial strains recited in the claims to prevent or treat angiogenesis dependent disorders. Moreover, Heo does not teach or suggest preventing or treating the particular disorders recited in the claims. Accordingly, Heo does not anticipate the claimed methods.

### Rejection Under 35 U.S.C. § 103(a)

Claims 19, 20, 23, 24, and 25 are rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent 6,491,956 (Heo), Konturek *et al.* (Konturek), and WO 03/045405 (Luquet).

The deficiencies of Heo are discussed above. Heo does not teach or suggest the claimed methods of preventing or treating angiogenesis dependent disorder. Konturek and Luquet do not overcome the deficiencies of Heo for the reasons set forth below.

The Office Action relies on Konturek for disclosing *Helicobacter* infection. However, like Heo, Konturek does not teach or suggest the claimed methods because Konturek does not teach or suggest the use of the bacterial strains recited in the claims for preventing or treating the angiogenesis dependent disorders. Moreover, Konturek does not teach or suggest preventing or treating the angiogenesis dependent disorders recited in the claims.

The Office Action relies on Luquet for disclosing the use of *Lactobacillus acidophilus* and *Lactobacillus casei*. However, Luquet only discloses the use of lactic bacterial strains and/or supernatants thereof in combination with an anti-cancer agent to treat or prevent cancer, more specifically, to facilitate cellular apoptosis of cancerous cells. Moreover, Applicants submit that a plethora of mechanisms to limit or eliminate tumor progression exist, including, for example, alteration of the cell cycle, alteration of cell growth, alteration of cell proliferation, alteration of cell differentiation, alteration of cell survival, modulation of the immune response targeted to cancerous cells. Anti-tumor and anti-metastatic activities of any given composition do not necessarily entail an anti-angiogenesis mechanism of action. Applicants respectfully submit that they unexpectedly discovered the anti-angiogenic activity of the lactic composition of the present invention.

Accordingly, the cited references do not render the claimed invention obvious.

### Conclusion

The foregoing amendments and remarks are being made to place the application in condition for allowance. Applicants respectfully request entry of the amendments, reconsideration, and the timely allowance of the pending claims. A favorable action is awaited. Should an interview be helpful to further prosecution of this application, the Examiner is invited to telephone the undersigned.

If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 13-3250. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,  
**MILBANK, TWEED, HADLEY &  
McCLOY, LLP**

/Sally Teng/

---

Sally P. Teng  
Registration No. 45,397

Date: July 16, 2010

**Milbank, Tweed, Hadley & McCloy, LLP**  
**Customer No. 038647**  
1850 K Street, N.W., Suite 1100  
Washington, D.C. 20006  
Tel: 202-835-7548